



California Fair Political Practices Commission

November 10, 1992

Ralph T. Asdel
Star Route Box K-17
Big Pine, CA 93513

Re: Your Request for Informal
Assistance
Our File No. I-92-603

Dear Mr. Asdel:

You have requested advice pursuant to the campaign provisions of the Political Reform Act (the "Act").¹ Because your request for advice concerns past conduct, we treat your letter as a request for informal assistance pursuant to Regulation 18329(c).²

QUESTION

Are you required to file an Officeholder and Candidate Campaign Statement-Long Form (Form 490) in connection with the June 2, 1992 election?

CONCLUSION

Based on the facts presented in your letter dated October 2, 1992 and on information received from you during our telephone conversations, it does not appear that you are required to file an Officeholder and Candidate Campaign Statement-Long Form (Form 490).

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

FACTS

The facts presented are based on your letter dated October 2, 1992 and on the information I received from you during our telephone conversations.

You were a candidate for the Fourth Supervisory District of Inyo County, involved in a June 2, 1992 election. You have received less than \$1,000 in connection with your efforts to win that office and have filed an Officeholder and Candidate Campaign Statement-Short Form (Form 470). Following the June 2, 1992 election, a recount was requested and paid for by a third party. Although you were informed of the request for a recount, you did not initiate, request, direct, or demand that it be done.

ANALYSIS

Officeholders and candidates may file a Form 470 if they do not have a controlled committee and total receipts and total expenditures remain, in the aggregate, less than \$1,000, respectively (including those from personal funds) for the entire calendar year. (Campaign Disclosure Information Manual A, page 16.)

Section 82015 states in part:

"Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and adequate consideration is received for making the expenditure.

Section 82031 provides:

"Independent expenditure" means an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

An expenditure is made "at the behest" of a candidate if it is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of the candidate or committee. (Regulations 18215, 18225.)

Based on the facts presented, no contribution was made on behalf of your campaign in connection with the recount. Therefore, so long as your total receipts and expenditures remain under \$1,000 during the entire calendar year, you are not required to file Form 490. Should your receipts or expenditures total \$1,000 or more at any time during the calendar year 1992, you will be required to establish a committee and file a Form 410 within 10 days of receiving \$1,000. In addition, you will be required to file a Form 490, due January 31, 1993, covering the period January 1, 1992 through December 31, 1992.

Please be advised that the advice provided in this letter is based on the facts presented in your letter dated October 2, 1992, and in our telephone conversations in which you stated that the payment for the recount was not made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of you or your campaign.³ If you have additional questions concerning this letter, please contact me at (916) 322-5662.

Sincerely,

Scott Hallabrin
Acting General Counsel



By: Sandra L. Silva
Political Reform Consultant
Technical Assistance Division

cc: Beverly Harry
County Clerk, Inyo County

³ The Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.)

ADVICE LETTER # I-92-603 REQUESTER: Asdel, Ralph

This letter was written by: Sandra Silva

The 21 working-days expires: N/A

However, a response has been requested by: —

Upon review, return to: TAA Sandra Silva

DIVISION CHIEF, TA&A

CW APPROVED

Comments to Executive Director and Chairman: _____

GENERAL COUNSEL:

AB APPROVED

X Without change

____ See changes noted in letter

General Comments/Thoughts: _____

____ NOT APPROVED

Reasons/Comments: _____

EXECUTIVE DIRECTOR:

____ APPROVED

____ Without change

____ See changes noted in letter

General Comments/Thoughts: _____

____ NOT APPROVED

Reasons/Comments: _____

RALPH T. ASDEL

Star Route Box K-17, Big Pine, California 93513
Telephone 619-938-2620

Oct 3 20 11 '92

Sandra Taylor Silva
State of California
Fair Political Practice Commission
428 J. Street
Sacramento, California 95814

October 2, 1992

Dear Ms. Silva:

During our discussions during the past weeks, you asked me to write to you concerning the recount of votes in the Fourth Supervisor District of Inyo County, following the June 2, 1992 primary election.

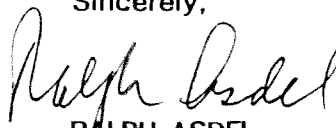
To the best of my knowledge, the recount was requested by Beverly Brons, a resident of the First Supervisor District, and the cost of the recount was paid by her, with financial assistance from Don Odell, who resides in the Fifth Supervisor District of Inyo County.

I was informed by both Mrs. Brons and Mr. Odell, that the recount was being requested. I did not initiate the idea of asking for a recount of the votes in the Fourth District, nor did I request, direct, or demand that it be done. I did not prompt anyone to ask for the recount, command anyone to do so, or make any promises in this connection.

Recently, in her letter to me, I have learned that the County Clerk, Beverly Harry, believes that the recount was done on my behalf. This is not true, although I have since learned that Mrs. Brons had to designate, as part of her request, the name of a candidate on whose behalf she requested the votes be recounted. At no time did I request that the votes be recounted, nor did I participate in the process in anyway.

Should you have any further questions about this matter, please do not hesitate to contact me.

Sincerely,


RALPH ASDEL

DONALD W. ODELL, LAWYER

Post Office Box 128, Lone Pine, California 93545
Telephone (619) 876-5829

Sandra Taylor Silva
State of California
Fair Political Practice Commission
428 J. Street
Sacramento, California 95814

OCT 13 1992

RECEIVED

October 7, 1992

SUBJECT: Inyo County Primary Election, June 2, 1992; Recount of
Votes in Fourth Supervisorial District.

Dear Ms. Silva:

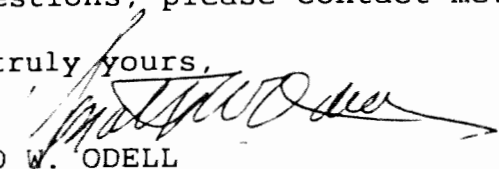
I have been contacted by Mr. Ralph Asdel of Big Pine, California, who asked that I write to you concerning my association with Beverly Brons of Bishop, California in her request for a recount of votes in the fourth supervisorial district in Inyo County.

After the June 2, 1992 primary election, and on or about June 30, 1992, I sent a check, drawn on my own funds, to Mrs. Brons, who had requested the subject recount, to apply to the costs of a deposit, which she was required to make to the County Clerk before the recount commenced. It was my intent to support her efforts and our common interest in keeping informed about the questionable practices of certain Inyo County officials.

Because of rumors of election irregularities in the past, I believed that it was justified to check the manner in which ballots were handled. Two of the candidates, Calloway and Gracey, running in the fourth district, had close ties to the Sheriff and Undersheriff, who during the campaign was the "Chairperson" for the Calloway Campaign. Gracey had been Chairman of the committee, on which I also served, to elect the Sheriff during 1990. The candidates were both under investigation by the Sheriff's office, and the District Attorney, for perjury in connection with filing their nomination papers and falsification of public records. I was concerned about the conduct of the County Clerk's office in having knowingly received falsified documents from friends of the Sheriff's office and having taken no action in either rejecting the documents, or investigating the matter. I believed that an audit of the election process would be in the best interests of the County to clear up the rumors and produce facts concerning the vote counting or canvassing process.

Should you have any further questions, please contact me.

Very truly yours,


DONALD W. ODELL

Oct 3 20 PM '92

Mrs. Beverly Lyons
2301 Stone Circle
Bishop, Ca 93514

To: Gordon Taylor Lilua;
Fair Political Campaign Practices Comm.
428 "J" Street, Sacramento, Ca 95814

In May of 1992 I received a telephone call from a Democratic voter about a wrong date Phamplet sent to him on the Inyo County Supervisorial race. He had paid for absentee ballot. Instead of receiving the 4th District ballot, he received one for the 5th District. I called our County elections clerk - Beverly Harry - and she had personally made the mistake and was sending him another absentee ballot.

After the June 2nd election, I worried about other mistakes that might have been made. So I called Mrs Harry asking for a recount of the 4th Dist' election - she said to put it in writing - as the recount had to be done before the 29th of June -. I sent the letter

codis I had to request it, name a Candidate
who ran in the Fourth District - There
were 3 - Mr. Asdel, Mrs. Grasse & Pat
Callaway. I took the first candidate by
alphabetical order - Which happened to be
Mr. Ralph Asdel - I sent in a check for
\$180.00 for the first day of the recount. It
was also to be that it would take 3 to 4
days to recount the 1300 votes cast. I was
thunderstruck that what should be a one
day event, was touted as a 3 to 4 day operation,
for the whole county I could see it, but not
for a single district, of four people recounting
1300 votes by hand! no way! I was right - The
recount lasted from 9:12 AM to 2:30 P. M. with
an hour lunch + 15 minute break, has then
8 hrs - work, five hundred and forty dollars - Two Way!

I understand Mrs. Harry has stated that
Mr. Asdel requested the recount - Nothing
could be further from the truth. I have
stated why I asked for the recount on the
first page of this letter. As an officer (elected)
to Duys County Central by Democrats and selected
by men Peers, as chairmen, I am not to

uphold the Constitution of the United States And the Constitution, and the Brown, of the State of California. In fact I have a copy of both in my library and use the Massachusetts.

Personally, I think, both have been hidden in the Past by (candidates) and having office, when it comes to in kind services using students from colleges, recruited by State legislators for the use by

Supervisory Candidates in Inyo Co -

This should be looked into while your acting on behalf of Mrs. Harry and/or Mrs. Asdel. Also who paid these students in 1990 - for lodging, food, gas, etc. during the Recall election of 1990 - I would check Mr. Wyman of the Assembly, Mr. Bill Thomas, Congress and Perhaps others. The students I spoke to were from Bakersfield (U.C @ B) on election night at the County Court House in Ind. Ca. Sincerely